

AMENDED IN ASSEMBLY AUGUST 7, 2002

AMENDED IN SENATE MAY 20, 2002

AMENDED IN SENATE APRIL 15, 2002

**SENATE BILL**

**No. 1886**

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**Introduced by Senator Torlakson**

February 22, 2002

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An act to amend the heading of Chapter 2 (commencing with Section 7300) of Part 3 of Division 5 of, to amend Sections 7301, 7301.5, 7303, 7304, 7305, 7306, 7307, 7308, 7310, 7311, 7312, 7313, 7314, 7315, 7316, 7317, 7318, 7320, 7321, 7321.5, and 7322 of, to add Sections 7300.1, 7300.2, 7300.3, 7300.4, 7301.1, 7302.1, 7302.2, 7309.1, 7311.1, 7311.2, 7311.3, 7311.4, 7323, 7324, 7324.1, and 7324.2 to, and to repeal and add Sections 7300 and 7302 of, the Labor Code, relating to equipment safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1886, as amended, Torlakson. Elevators and other conveyances.

Under existing law, with certain exceptions, no elevator may be operated unless it has a permit issued by the Division of Occupational Safety and Health of the Department of Industrial Relations. These provisions of existing law provide for annual inspections of elevators by the division, by inspectors of specified municipalities, or by qualified inspectors of insurance companies. Existing law permits elevators subject to a full maintenance service contract to be inspected every 2 years. Existing law also authorizes elevator permits to be issued on the basis of municipal inspections, as specified. Persons inspecting elevators are required by existing law to obtain a certificate of

competency from the division. Existing law provides specified enforcement authority to the division and provides for fees for elevator inspections and permits and field consultations.

This bill would substantially revise and recast this existing law to additionally cover, subject to certain exceptions, defined conveyances, including, in part, escalators, platform and stairway chair lifts, dumbwaiters, material lifts, moving walks, and automated people movers. Among the changes the bill would make, it would require that on or after June 30, 2003, no conveyance, except a platform lift or stairway chair *lift installed in a private residence*, may be erected, constructed, installed, or materially altered without a permit from the division. The bill would require the Occupational Safety and Health Standards Board to adopt regulations for emergency signal devices for conveyances in addition to elevators. The bill would require the division to adopt prescribed procedures for 30-day renewable certification of emergency certified qualified elevator mechanics to provide elevator service when a disaster or other emergency exists and there are insufficient regularly certified competent elevator mechanics to cope with the emergency. The bill would require the division to adopt prescribed procedures for 30-day renewable certification of temporary certified competent elevator mechanics where there are no certified qualified elevator mechanics available.

The bill would impose a state-mandated local program by expanding misdemeanor provisions applicable to the operation of an elevator without a permit to also cover other conveyances, except conveyances in a defined private residence. The bill would also revise the applicable misdemeanor penalties. The bill would impose a state-mandated local program by making it a misdemeanor to contract for or authorize the erection, construction, installation, or alteration of a conveyance without a permit in violation of the bill. The bill would also impose a state-mandated local program by making it a misdemeanor for any employer or contractor to engage in the erection, construction, installation, or material alteration of a conveyance without a permit in violation of the bill.

The bill would revise the authority of the division to seek injunctions restraining the operation of elevators without a permit and in a dangerous condition to include all conveyances, would exempt the division from any requirement for an injunction bond, and would make any person who intentionally violates such an injunction subject to prescribed civil penalties.



The bill would make the inspection requirements applicable to all conveyances.

The bill would impose a state-mandated local program by making it a misdemeanor with prescribed punishment for any person owning or having custody, management, or control of the operation of a conveyance, to operate the conveyance while a repair order of the division is outstanding. The bill would revise current inspection requirements to require initial inspection by division inspectors and reinspection by the division's inspectors or any other defined elevator inspector certified as qualified by the division. On and after June 30, 2003, the bill would prohibit these reinspections unless the inspector is certified by the division. The bill would, with certain exceptions, on and after June 30, 2003, prohibit the erection, construction, material alteration, testing, maintenance, repair, or servicing of a conveyance except by a person, firm, or corporation certified by the division, as specified. On and after June 30, 2003, the bill would prohibit any person from erecting, constructing, materially altering, testing, maintaining, repairing, servicing, removing, or dismantling a conveyance without supervision, unless the person is certified by the division.

The bill would provide for biennial renewal of division certifications under the bill and would provide for fees and continuing education requirements. The bill would make failure of an elevator inspector to comply with certain reporting requirements grounds for revocation of certification. The bill would authorize the division to issue temporary permits to operate a conveyance pending receipt of the applicable fee. The bill would revise civil penalties that may be assessed for operating or permitting the operation of a conveyance that is dangerous or in violation of an order prohibiting use. The bill would provide for an order prohibiting use and provide for civil penalties that may be assessed for constructing, installing, or materially altering a conveyance that is dangerous. The bill would impose a state-mandated local program by making it a misdemeanor with prescribed penalties (1) to enter, use, or direct or cause another to enter or use a conveyance after a prescribed notice has been attached and before it is made safe or (2) to deface, destroy, or remove such a notice without authority of the division. The bill would also make it a misdemeanor with prescribed penalties for any person to operate a conveyance without a permit or without paying the required fee.

The bill would require the division by December 31, 2003, to propose specified final rulemaking proposals for conveyances for review and



adoption by the Occupational Safety and Health Standards Board, require the board to provide public notice of the rulemaking proposals, and provide for adoption of those proposals pursuant to specified requirements. The bill would also require prescribed revisions to the regulations. The bill would specify that standards imposed pursuant to it shall not be applied retroactively.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The heading of Chapter 2 (commencing with  
2 Section 7300) of Part 3 of Division 5 of the Labor Code is amended  
3 to read:

4

5 CHAPTER 2. ELEVATORS, ESCALATORS, PLATFORM AND  
6 STAIRWAY CHAIR LIFTS, DUMBWAITERS, MOVING WALKS,  
7 AUTOMATED PEOPLE MOVERS, AND OTHER CONVEYANCES

8

9 SEC. 2. Section 7300 of the Labor Code is repealed.

10 SEC. 3. Section 7300 is added to the Labor Code, to read:

11 7300. The Legislature finds and declares all of the following:

12 (a) It is the purpose of this chapter to promote public safety  
13 awareness and to assure, to the extent feasible, the safety of the  
14 public and of workers with respect to conveyances covered by this  
15 chapter.

16 (b) The use of unsafe or defective conveyances imposes a  
17 substantial probability of serious and preventable injury to  
18 employees and the public. The prevention of these injuries and  
19 protection of employees and the public from unsafe conditions is  
20 in the best interest of the people of this state. Therefore, this  
21 chapter also establishes minimum standards for persons operating  
22 or maintaining conveyances covered by this chapter. These  
23 standards include familiarity with the operation and safety



functions of the components and equipment, and documented training or experience or both, which shall include, but not be limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with all legal requirements.

(c) This chapter is not intended to prevent the division from implementing regulations, nor to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability, and safety to those required by the law, provided that there is technical documentation to demonstrate that the equivalency of the system, method, or device, is at least as effective as that prescribed in ASME A17.1, ASME A17.3, ASME A18.1, or ASCE 21.

SEC. 4. Section 7300.1 is added to the Labor Code, to read: 7300.1. As used in this chapter:

(a) “ASCE 21” means the Automated People Mover Standards, as adopted by the American Society of Civil Engineers.

(b) “ASME A17.1” means the Safety Code for Elevators and Escalators, an American National Standard, as adopted by the American Society of Mechanical Engineers.

(c) “ASME A17.3” means the Safety Code for Existing Elevators and Escalators, an American National Standard, as adopted by the American Society of Mechanical Engineers.

(d) “ASME A18.1” means the Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard, as adopted by the American Society of Mechanical Engineers.

(e) “Automated people mover” has the same meaning as defined in ASCE 21.

(f) “Board” or “standards board” means the Occupational Safety and Health Standards Board.

(g) “Certified qualified elevator company” means any person, firm, or corporation that (1) possesses a valid contractor’s license if required by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code and (2) is certified as a qualified elevator company by the division in accordance with this chapter.

(h) “Certified competent elevator mechanic” means any person who has been determined by the division to have the qualifications and ability of a competent journey-level elevator

1 mechanic and is so certified by the division in accordance with this  
2 chapter.

3 (i) “Conveyance” means any elevator, dumbwaiter, escalator,  
4 moving platform lift, stairway chairlift, dumbwaiter, material lift  
5 or dumbwaiter with automatic transfer device, automated people  
6 mover, or other equipment subject to this chapter.

7 (j) “Division” means the Division of Occupational Safety and  
8 Health.

9 (k) “Dormant elevator, dumbwaiter, or escalator” means an  
10 installation placed out of service as specified in ASME A17.1 and  
11 ASME A18.1.

12 (l) “Elevator” means an installation defined as an “elevator”  
13 in ASME A17.1.

14 (m) “Elevator inspector” means any elevator safety inspector  
15 of the division or other elevator inspector determined by the  
16 division to be qualified pursuant to this chapter. “Elevator  
17 inspector” includes any inspector determined by the division to be  
18 qualified to inspect other types of conveyances.

19 (n) “Escalator” means an installation defined as an  
20 “escalator” in ASME A17.1.

21 (o) “Existing installation” means an installation defined as an  
22 “installation, existing” in ASME A17.1.

23 (p) “Full maintenance service contract” means an agreement  
24 by a certified competent elevator company and the person owning  
25 or having the custody, management, or control of the operation of  
26 the conveyance, if the agreement provides that the certified  
27 competent elevator company is responsible for effecting repairs  
28 necessary to the safe operation of the equipment and will provide  
29 services as frequently as is necessary, but no less often than  
30 monthly.

31 (q) “Material alteration” means an alteration as defined in  
32 ASME A17.1 or A18.1.

33 (r) “Moving walk” or “moving sidewalk” means an  
34 installation defined as a “moving walk” in ASME A17.1.

35 (s) “Permit” means a document issued by the division that  
36 indicates that the conveyance has had the required safety  
37 inspection and tests and fees have been paid as set forth in this  
38 chapter.

39 (t) “Temporary permit” means a document issued by the  
40 division which permits the use of a noncompliant conveyance by

1 the general public for a limited time while minor repairs are being  
2 completed or until permit fees are paid.

3 (u) “Repair” has the same meaning as defined in ASME A17.1  
4 or A18.1. A “repair” does not require a permit.

5 (v) “Temporarily dormant elevator, dumbwaiter, or escalator”  
6 means a conveyance, the power supply of which has been  
7 disconnected by removing fuses and placing a padlock on the  
8 mainline disconnect switch in the “off” position. In the case of an  
9 elevator or dumbwaiter, the car shall be parked and the hoistway  
10 doors shall be in the closed and latched position. A wire seal shall  
11 be installed on the mainline disconnect switch by an elevator  
12 inspector of the division. The wire seal and padlock shall not be  
13 removed for any purpose without permission from an elevator  
14 inspector of the division. A temporarily dormant elevator,  
15 dumbwaiter, or escalator shall not be used again until it has been  
16 put in safe running order and is in condition for use. Annual  
17 inspections by an elevator inspector shall continue for the duration  
18 of the temporarily dormant status. Temporarily dormant status  
19 may be renewed annually, but shall not exceed five years. After  
20 each inspection, the elevator inspector shall file a report with the  
21 chief of the division describing the current condition of the  
22 conveyance.

23 (w) The meanings of building transportation terms not  
24 otherwise defined in this section shall be as defined in the latest  
25 editions of ASME A17.1 and ASME A18.1.

26 SEC. 5. Section 7300.2 is added to the Labor Code, to read:

27 7300.2. Except as provided in Section 7300.3, this chapter  
28 covers the design, erection, construction, installation, material  
29 alteration, inspection, testing, maintenance, repair, service, and  
30 operation of the following conveyances and their associated parts  
31 and hoistways:

32 (a) Hoisting and lowering mechanisms equipped with a car or  
33 platform which move between two or more landings. This  
34 equipment includes, but is not limited to, the following:

35 (1) Elevators.

36 (2) Platform lifts and stairway chair lifts.

37 (b) Power-driven stairways and walkways for carrying persons  
38 between landings. This equipment includes, but is not limited to,  
39 the following:

40 (1) Escalators.

1 (2) Moving walks.

2 (c) Hoisting and lowering mechanisms equipped with a car  
3 which serve two or more landings and are restricted to the carrying  
4 of material by limited size or limited access to the car. This  
5 equipment includes, but is not limited to, the following:

6 (1) Dumbwaiters.

7 (2) Material lifts and dumbwaiters with automatic transfer  
8 devices.

9 (d) Automatic guided transit vehicles on guideways with an  
10 exclusive right-of-way. This equipment includes, but is not limited  
11 to, automated people movers.

12 SEC. 6. Section 7300.3 is added to the Labor Code, to read:  
13 7300.3. Equipment not covered by this chapter includes the  
14 following:

15 (a) Material hoists within the scope of standard A10.5 as  
16 adopted by the American National Standards Institute.

17 (b) Mobile scaffolds, towers, and platforms within the scope of  
18 standard A92 as adopted by the American National Standards  
19 Institute.

20 (c) Powered platforms and equipment for exterior and interior  
21 maintenance within the scope of standard 120.1 as adopted by the  
22 American National Standards Institute.

23 (d) Cranes, derricks, hoists, hooks, jacks, and slings within the  
24 scope of standard B30 as adopted by the American Society of  
25 Mechanical Engineers.

26 (e) Industrial trucks within the scope of standard B56 as  
27 adopted by the American Society of Mechanical Engineers.

28 (f) Portable equipment, except for portable escalators that are  
29 covered by standard A17.1 as adopted by the American National  
30 Standards Institute.

31 (g) Tiering or piling machines used to move materials to and  
32 from storage located and operating entirely within one story.

33 (h) Equipment for feeding or positioning materials, including  
34 that equipment used with machine tools or printing presses.

35 (i) Skip or furnace hoists.

36 (j) Wharf ramps.

37 (k) Railroad car lifts or dumpers.

38 (l) Line jacks, false cars, shafters, moving platforms, and  
39 similar equipment used for installing an elevator by a contractor  
40 licensed in this state.

1 ~~(m) Conveyances under the jurisdiction of the government of~~  
2 ~~the United States.~~

3 SEC. 7. Section 7300.4 is added to the Labor Code, to read:

4 7300.4. This chapter does not apply to work that is not related  
5 to standards for conveyances that are (a) incorporated in codes  
6 promulgated by the American National Standards Institute or the  
7 American Society of Mechanical Engineers or (b) included in  
8 regulations of the division, in effect immediately prior to January  
9 1, 2003, prescribing elevator safety orders. Work exempted  
10 pursuant to this section includes, but is not limited to, routine  
11 nonmechanical maintenance, such as cleaning panels and  
12 changing light fixtures.

13 SEC. 8. Section 7301 of the Labor Code is amended to read:

14 7301. No conveyance shall be operated in this state unless a  
15 permit for its operation is issued by or in behalf of the division, and  
16 unless the permit remains in effect and is kept posted  
17 conspicuously on the conveyance. Operation of a conveyance  
18 without a permit or failure to post the permit conspicuously shall  
19 constitute cause for the division to prohibit use of the conveyance,  
20 unless it can be shown that a request for issuance or renewal of a  
21 permit has been made and the request has not been acted upon by  
22 the division.

23 SEC. 9. Section 7301.1 is added to the Labor Code, to read:

24 7301.1. (a) On and after June 30, 2003, no conveyance;  
25 ~~except for platform lifts and stairway chair lifts,~~ may be erected,  
26 constructed, installed, or materially altered, as defined by  
27 regulation of the division, unless a permit has been obtained from  
28 the division before the work is commenced. A copy of the permit  
29 shall be kept at the construction site at all times while the work is  
30 in progress and shall be made available for inspection upon  
31 request. *This section shall not apply to platform lifts and stairway*  
32 *chair lifts installed in a private residence as provided in paragraph*  
33 *(2) or (3) of subdivision (a) of Section 7317.*

34 (b) Before March 1, 2003, the division shall establish an  
35 application procedure and all requirements for a permit under this  
36 section, which shall include the following:

37 (1) At a minimum, the applicant for a permit under this section  
38 shall meet all of the following requirements:

1 (A) The applicant shall hold a current elevator contractor's  
2 license issued pursuant to Chapter 9 (commencing with Section  
3 7000) of Division 3 of the Business and Professions Code.

4 (B) The applicant shall be a certified qualified elevator  
5 company.

6 (C) The applicant shall submit proof of the following types of  
7 insurance coverage, in the form of certified copies of policies or  
8 certificates of insurance:

9 (i) Liability insurance to provide general liability coverage of  
10 not less than one million dollars (\$1,000,000) for the injury or  
11 death of any one person or persons in any one occurrence, with  
12 coverage of not less than five hundred thousand dollars (\$500,000)  
13 for property damage in any one occurrence.

14 (ii) Workers' compensation insurance coverage.

15 In the event of any material alteration, nonrenewal, or  
16 cancellation of any insurance required by this subparagraph, the  
17 applicant or permit holder shall submit written notice thereof to the  
18 division within five working days.

19 (2) At a minimum, each application for a permit under this  
20 section shall include all of the following:

21 (A) Copies of specifications and accurately scaled and fully  
22 dimensioned plans showing the location of the installation in  
23 relation to the plans and elevation of the building; the location of  
24 the machinery room and the equipment to be installed, relocated,  
25 or altered; and all structural supporting members thereof,  
26 including foundations. The plans and specifications shall identify  
27 all materials to be employed and all loads to be supported or  
28 conveyed. The plans and specifications shall be sufficiently  
29 complete to illustrate all details of construction and design.

30 (B) The name, residence, and business address of the applicant  
31 and each partner, or for a corporation of the principal officers and  
32 anyone who is authorized to accept service of process or official  
33 notices; the number of years the applicant has engaged in the  
34 business of constructing, erecting, installing, or altering  
35 conveyances; the approximate number of persons to be employed  
36 on the permitted job; a declaration signed by the applicant  
37 regarding all civil actions to which the applicant is or was a party,  
38 whether pending and closed within the last 10 years, which  
39 declaration shall provide sufficient information to identify parties,



1 the nature of action, and outcome; and other information as the  
2 division may require.

3 (C) The permit fee.

4 (3) The division shall establish, and may from time to time  
5 amend, a fee for a permit under this section in an amount sufficient  
6 to defray the division's actual costs in administering the permit  
7 process, including the costs of investigation, revocation, or other  
8 associated costs. Permit fees collected by the division are  
9 nonrefundable.

10 (c) (1) The permit shall expire when the work authorized by  
11 that permit is not commenced within six months after the date of  
12 issuance, or within a shorter period as the division may specify at  
13 the time the permit is issued.

14 (2) The permit shall expire following commencement of work,  
15 if the permitholder suspends or abandons the work for a period of  
16 60 days, or for a shorter period of time as the division may specify  
17 at the time the permit is issued.

18 (3) Upon application and for good cause shown, the division  
19 may extend a permit that would otherwise expire under this  
20 subdivision.

21 (d) The division may revoke any permit at any time, upon good  
22 cause, and after notice and an opportunity to be heard.

23 SEC. 10. Section 7301.5 of the Labor Code is amended to  
24 read:

25 7301.5. (a) The standards board shall adopt regulations  
26 pertaining to conveyances, including, but not limited to,  
27 conveyance emergency and signal devices, and the operation of  
28 conveyances under fire and other emergency conditions.

29 (b) Before January 1, 2003, the division shall establish an  
30 application procedure and all requirements for certification under  
31 this subdivision as an emergency certified competent elevator  
32 mechanic. To ensure the safety of the public when a disaster or  
33 other emergency exists within the state and the number of certified  
34 competent elevator mechanics in the state is insufficient to cope  
35 with the emergency, any certified qualified elevator company may,  
36 within five business days after commencing work requiring  
37 certified competent elevator mechanics, apply to the division, on  
38 behalf of all persons performing the work who are not certified  
39 competent elevator mechanics, for certification as emergency  
40 certified competent elevator mechanics. Any person for whom

1 emergency certification is sought under this subdivision shall be  
2 certified by a certified qualified elevator company to have an  
3 acceptable combination of documented experience and education  
4 to perform work covered by this chapter without direct and  
5 immediate supervision. The certified qualified elevator company  
6 shall furnish proof of competency as the division may require. The  
7 division shall issue an emergency certified competent elevator  
8 mechanic certificate upon receipt of acceptable documentation  
9 and payment of the required fee. Each certificate issued pursuant  
10 to this subdivision shall recite that it is valid for a period of 30 days  
11 from the date of issuance and for those particular conveyances and  
12 geographical areas as the division may designate, and otherwise  
13 shall entitle the person being certified to the rights and privileges  
14 of a certified competent elevator mechanic as set forth in this  
15 chapter. The division shall renew an emergency certified  
16 competent elevator mechanic certificate during the existence of  
17 the emergency.

18 (c) Before January 1, 2004, the division shall establish an  
19 application procedure and all requirements for certification under  
20 this subdivision as a temporary certified competent elevator  
21 mechanic. If there are no certified qualified elevator mechanics  
22 available to perform elevator work, a certified qualified elevator  
23 company may apply to the division for certification of one or more  
24 temporary certified competent elevator mechanics. Any person  
25 seeking to work as a temporary certified competent elevator  
26 mechanic shall, before beginning work, be approved by the  
27 division as having an acceptable combination of documented  
28 experience and education to perform work covered by this chapter  
29 without direct and immediate supervision. The certified qualified  
30 elevator company shall furnish proof of competency as the  
31 division may require. The division may issue a temporary certified  
32 competent elevator mechanic certificate upon acceptable  
33 documentation and payment of the required fee. Each certificate  
34 issued pursuant to this subdivision shall recite that it is valid for a  
35 period of 30 days from the date of issuance and while the certificate  
36 holder is employed by the certified qualified elevator company  
37 that certified the individual as competent. The certificate shall be  
38 renewable as long as the shortage of certified competent elevator  
39 mechanics continues.

40 SEC. 11. Section 7302 of the Labor Code is repealed.

SEC. 12. Section 7302 is added to the Labor Code, to read:

7302. The operation of a conveyance without a permit by any person owning or having the custody, management, or control of the operation of the conveyance, is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), imprisonment in the county jail for not more than 10 days, or by both that fine and imprisonment. Each day of operation for each conveyance without a permit is a separate offense. Any person who has requested the issuance or renewal of a permit if the request has not been acted upon by the division may not be prosecuted for a violation of this section.

SEC. 13. Section 7302.1 is added to the Labor Code, to read:

7302.1. (a) Any person who contracts for or authorizes the erection, construction, installation, or material alteration of a conveyance without a permit in violation of Section 7301.1 is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) Any employer or contractor who contracts for or engages in the erection, construction, installation, or material alteration of a conveyance without a permit in violation of Section 7301.1 is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

SEC. 14. Section 7302.2 is added to the Labor Code, to read:

7302.2. The division may assess a civil penalty of not more than seventy thousand dollars (\$70,000) against any person, and against any employer or contractor, who contracts for or authorizes the erection, construction, installation, or material alteration of a conveyance without a permit issued pursuant to Section 7301.1.

SEC. 15. Section 7303 of the Labor Code is amended to read:

7303. (a) Whenever any conveyance is operated without a current valid permit issued pursuant to Section 7304, and is in a condition that its use is dangerous to the life or safety of any person, the division or any affected person may apply to the superior court of the county in which the conveyance is located for an injunction restraining the operation of the conveyance until the

1 condition is corrected. Proof by certification of the division that a  
2 permit has not been issued, has expired, or has been revoked,  
3 together with the affidavit of any safety inspector of the division  
4 or other expert that the operation of the conveyance is dangerous  
5 to the life or safety of any person, is sufficient ground, in the  
6 discretion of the court, for the immediate granting of a temporary  
7 restraining order.

8 (b) No bond shall be required from the division as a prerequisite  
9 for the division to seek or obtain any restraining order under  
10 subdivision (a).

11 (c) Any person who intentionally violates any injunction  
12 prohibiting the operation of the conveyance issued pursuant to  
13 subdivision (a) shall be liable for a civil penalty, to be assessed by  
14 the division, not to exceed seven thousand dollars (\$7,000) for  
15 each violation. Each day of operation for each conveyance is a  
16 separate violation.

17 SEC. 16. Section 7304 of the Labor Code is amended to read:

18 7304. (a) Except as provided in subdivisions (b) and (c), the  
19 division shall cause all conveyances to be inspected at least once  
20 each year. If a conveyance is found upon inspection to be in a safe  
21 condition for operation, a permit for operation for not longer than  
22 one year shall be issued by the division.

23 (b) If a conveyance is subject to a full maintenance service  
24 contract, the division may, after investigation and inspection, issue  
25 a permit for operation for not longer than two years.

26 SEC. 17. Section 7305 of the Labor Code is amended to read:

27 7305. If inspection shows that a conveyance is in an unsafe  
28 condition, the division may issue a preliminary order requiring  
29 repairs or alterations to be made to the conveyance that are  
30 necessary to render it safe, and may prohibit its operation or use  
31 until the repairs or alterations are made or the unsafe conditions are  
32 removed.

33 SEC. 18. Section 7306 of the Labor Code is amended to read:

34 7306. Unless the preliminary order is complied with, a  
35 hearing before the division shall be allowed, upon request, at  
36 which the owner, operator, or other person in charge of the  
37 conveyance may appear and show cause why he or she should not  
38 comply with the order.

39 SEC. 19. Section 7307 of the Labor Code is amended to read:

7307. (a) If it thereafter appears to the division that the conveyance is unsafe and that the requirements contained in the preliminary order should be complied with, or that other things should be done to make the conveyance safe, the division may order or confirm the withholding of the permit and may impose requirements as it deems proper for the repair or alteration of the conveyance or for the correction of the unsafe condition. The order may thereafter be reheard by the division or reviewed by the courts in the manner specified for safety orders by Part 1 (commencing with Section 6300) of this division, and not otherwise.

(b) The operation of a conveyance by any person owning or having the custody, management, or control of the operation thereof, while an order to repair is outstanding pursuant to subdivision (a), is a misdemeanor punishable by a fine of not more than seven thousand dollars (\$7,000), by imprisonment in the county jail for not more than 30 days, or by both that fine and imprisonment. Each day of operation for each conveyance without a permit is a separate offense.

SEC. 20. Section 7308 of the Labor Code is amended to read:

7308. If the operation of a conveyance during the making of repairs or alterations is not immediately dangerous to the safety of persons, the division may issue a temporary permit for its operation for a period not to exceed 30 days during the making of repairs or alterations.

SEC. 21. Section 7309.1 is added to the Labor Code, to read:

7309.1. (a) On and after June 30, 2003, no conveyance subject to this chapter shall be reinspected by any person unless the person is an elevator inspector employed by the division or certified as qualified by the division.

(b) Before March 1, 2003, the division shall establish an application procedure and all requirements for the certification of elevator inspectors. Each application for certification shall include information as the division may require and the applicable fee. At a minimum, the applicant shall present proof of certification as a qualified elevator inspector by the American Society of Mechanical Engineers or proof of education and experience equivalent to what is required to obtain that certification from the American Society of Mechanical Engineers.

SEC. 22. Section 7310 of the Labor Code is amended to read:

1 7310. The division may also issue its permit or a permit may  
2 be issued on its behalf based upon a certificate of inspection issued  
3 by an elevator inspector of any municipality, upon proof to the  
4 satisfaction of the division that the safety requirements of the  
5 municipality are equal to the minimum safety requirements for  
6 conveyances adopted by the board.

7 SEC. 23. Section 7311 of the Labor Code is amended to read:

8 7311. All persons inspecting conveyances shall first secure  
9 from the division a certificate of competency to make those  
10 inspections. The division may determine the competency of any  
11 applicant for the certificate, either by examination or by other  
12 satisfactory proof of qualifications. The division may rescind at  
13 any time, upon good cause being shown therefor, and after hearing,  
14 if requested, any certificate of competency issued by it to an  
15 elevator inspector.

16 SEC. 24. Section 7311.1 is added to the Labor Code, to read:

17 7311.1. (a) On and after June 30, 2003, no conveyance  
18 subject to this chapter, ~~except for platform lifts and stairway chair~~  
19 ~~lifts~~, shall be erected, constructed, installed, materially altered,  
20 tested, maintained, repaired, or serviced by any person, firm, or  
21 corporation unless the person, firm, or corporation is certified by  
22 the division as a certified qualified elevator company. A copy of  
23 the certificate shall be kept at the site of the conveyance at all times  
24 while any work is in progress, and shall be made available for  
25 inspection upon request. However, certification under this section  
26 is not required for removing or dismantling conveyances that are  
27 destroyed as a result of the complete demolition of a secured  
28 building or structure or where the hoistway or wellway is  
29 demolished back to the basic support structure and no access is  
30 permitted that would endanger the safety of any person. *This*  
31 *section shall not apply to platform lifts and stairway chair lifts*  
32 *installed in a private residence as provided in paragraph (2) or (3)*  
33 *of subdivision (a) of Section 7317.*

34 (b) Before March 1, 2003, the division shall establish an  
35 application procedure and all requirements for certification under  
36 this section as a certified qualified elevator company, consistent  
37 with this section. At a minimum, the individual qualifying on  
38 behalf of a corporation, the owner on behalf of a sole ownership,  
39 or the partners on behalf of a partnership, shall meet either of the  
40 following requirements:

1 (1) Five years' work experience at a journey person level in the  
2 elevator industry in construction, installation, alteration, testing,  
3 maintenance, and service and repair of conveyances covered by  
4 this chapter. This experience shall be verified by current and  
5 previously licensed elevator contractors or by current and  
6 previously certified qualified elevator companies.

7 (2) Satisfactory completion of a written examination  
8 administered by the division on the most recent applicable codes  
9 and standards.

10 (c) At a minimum, each application for certification as a  
11 certified qualified elevator company shall include:

12 (1) The name, residence and business address, and telephone  
13 numbers and other means to contact the sole owner or each partner,  
14 or for a corporation of the principal officers and the individual  
15 qualifying for the corporation; the number of years the applicant  
16 business has engaged in the business of constructing, maintaining,  
17 and service and repair of conveyances; and other information as  
18 the division may require.

19 (2) The fee required by this chapter.

20 (d) Before bidding for or engaging in any work covered by this  
21 chapter, a certified qualified elevator company shall submit proof  
22 to the division by certified copies of policies or certificates of  
23 insurance, of all of the following:

24 (1) Liability insurance providing general liability coverage of  
25 not less than one million dollars (\$1,000,000) for injury or death  
26 of any one person or persons in any one occurrence, with coverage  
27 of not less than five hundred thousand dollars (\$500,000) for  
28 property damage in any of any one person or persons in any one  
29 occurrence.

30 (2) Workers' compensation insurance coverage.

31 In the event of any material alteration or cancellation of any  
32 policy specified in paragraph (1) or (2), the certified qualified  
33 elevator company shall provide written notice thereof to the  
34 division within five working days.

35 SEC. 25. Section 7311.2 is added to the Labor Code, to read:

36 7311.2. (a) On and after June 30, 2003, except as provided in  
37 subdivisions (b) and (c) of Section 7301.5, any person who,  
38 without supervision, erects, constructs, installs, alters, tests,  
39 maintains, services or repairs, removes, or dismantles any  
40 conveyance covered by this chapter, ~~except for platform lifts or~~

1 ~~stairway chair lifts~~, shall be certified as a certified competent  
2 elevator mechanic by the division. *This section shall not apply to*  
3 *platform lifts and stairway chair lifts installed in a private*  
4 *residence as provided in paragraph (2) or (3) of subdivision (a) of*  
5 *Section 7317.*

6 (b) Before March 1, 2003, the division shall establish an  
7 application procedure and all requirements for certification under  
8 this section as a certified competent elevator mechanic, consistent  
9 with all of the following:

10 (1) At a minimum, a certified competent elevator mechanic  
11 applicant shall meet both of the following requirements:

12 (A) Three years' work experience in the elevator industry in  
13 construction, maintenance, and service and repair of conveyances  
14 covered by this chapter. This experience shall be verified by  
15 current and previously licensed elevator contractors or by current  
16 and previously certified qualified elevator companies, as required  
17 by the division.

18 (B) One of the following:

19 (i) Satisfactory completion of a written examination  
20 administered by the division on the most recent applicable codes  
21 and standards.

22 (ii) A certificate of completion and successfully passing the  
23 mechanic examination of a nationally recognized training  
24 program for the elevator industry, such as the National Elevator  
25 Industry Educational Program or its equivalent.

26 (iii) A certificate of completion of an apprenticeship program  
27 for elevator mechanic, having standards substantially equal to  
28 those of this chapter, and which program shall be registered with  
29 the Bureau of Apprenticeship and Training of the United States  
30 Department of Labor or a state apprenticeship council.

31 (iv) A certificate or license from another state having standards  
32 substantially equal to or more comprehensive than those of this  
33 chapter.

34 (v) The applicant applies on or before December 31, 2003, and  
35 within the three years immediately prior to January 1, 2003, has  
36 documented at least three years of actual work experience in the  
37 elevator industry in construction, maintenance, and service and  
38 repair of conveyances covered by this chapter. This experience  
39 shall be as a journey-level mechanic working without direct and  
40 immediate supervision, and shall be verified by currently and

1 previously licensed elevator contractors or by current and  
2 previously certified qualified elevator companies, as required by  
3 the division.

4 (2) At a minimum, each application for certification as a  
5 certified competent elevator mechanic shall include the  
6 information required by the division and the fee required by this  
7 chapter.

8 SEC. 26. Section 7311.3 is added to the Labor Code, to read:

9 7311.3. (a) A certificate issued by the division to the certified  
10 qualified elevator inspector, certified qualified elevator company,  
11 or certified competent elevator mechanic as set forth in Sections  
12 7309.1, 7311.1, and 7311.2, shall have a term of two years. The fee  
13 for biennial renewal shall be established by the division in an  
14 amount sufficient to defray the division's costs of administering  
15 this chapter.

16 (b) The renewal of all certificates issued under this chapter  
17 shall be conditioned upon the submission of a certificate of  
18 completion of a course designed to ensure the continuing  
19 education of certificate holders on new and existing provisions of  
20 the regulations of the board. This continuing education course  
21 shall consist of not less than eight hours of instruction that shall be  
22 attended and completed within one year immediately preceding  
23 any certificate renewal.

24 (c) The courses shall be taught by instructors through  
25 continuing education providers that may include, but shall not be  
26 limited to, division programs, association seminars, and joint  
27 labor-management apprenticeship and journeyman upgrade  
28 training programs. The division shall approve the continuing  
29 education providers and curriculum. All instructors shall be  
30 approved by the division and shall be exempt from the  
31 requirements of subdivision (b), provided that the applicant is  
32 qualified as an instructor at any time during the one-year period  
33 immediately preceding the scheduled date for renewal.

34 (d) A certificate holder who is unable to complete the  
35 continuing education course required under this section prior to  
36 the expiration of his or her certificate due to a temporary disability  
37 may apply for a waiver from the division. Waiver applications  
38 shall be submitted to the division on a form provided by the  
39 division. Waiver applications shall be signed and accompanied by  
40 a declaration signed by a competent physician attesting to the

1 applicant's temporary disability. Upon the termination of the  
2 temporary disability, the certificate holder shall submit to the  
3 division a declaration from the same physician, if practicable,  
4 attesting to the termination of the temporary disability, and a  
5 waiver sticker, valid for 90 days, shall be issued to the certificate  
6 holder and affixed to his or her certificate.

7 (e) Continuing education providers approved by the division  
8 shall keep uniform records, for a period of 10 years, of attendance  
9 of certificate holders, following a format approved by the division.  
10 These records shall be available for inspection by the division at  
11 its request. Approved continuing education providers shall keep  
12 secure all attendance records and certificates of completion.  
13 Falsifying or knowingly allowing another to falsify attendance  
14 records or certificates of completion of continuing education  
15 provided pursuant to this section shall constitute grounds for  
16 suspension or revocation of the approval required under this  
17 section.

18 SEC. 27. Section 7311.4 is added to the Labor Code, to read:

19 7311.4. (a) The division shall establish fees for initial and  
20 renewal applications for certification under this chapter as a  
21 certified qualified elevator inspector, certified qualified elevator  
22 company, or certified competent elevator mechanic based upon the  
23 actual costs involved with the certification process, including the  
24 cost of developing and administering any tests as well as any costs  
25 related to continuing education, investigation, revocation, or other  
26 associated costs.

27 (b) Fees collected pursuant to this chapter are nonrefundable.

28 SEC. 28. Section 7312 of the Labor Code is amended to read:

29 7312. The division may at any time, upon good cause being  
30 shown therefor, and after notice and an opportunity to be heard,  
31 revoke any permit to operate a conveyance.

32 SEC. 29. Section 7313 of the Labor Code is amended to read:

33 7313. Each elevator inspector shall, within 21 days after he or  
34 she makes an inspection, forward to the division on forms  
35 provided by it, a report of the inspection. Failure to comply with  
36 this section shall be grounds for the division to cancel his or her  
37 certificate.

38 SEC. 30. Section 7314 of the Labor Code is amended to read:

39 7314. (a) The division may fix and collect fees for the  
40 inspection of conveyances as it deems necessary to cover the actual

costs of having the inspection performed by a division safety engineer, including administrative costs, and the costs related to regulatory development as required by Section 7323. An additional fee may, in the discretion of the division, be charged for necessary subsequent inspections to determine if applicable safety orders have been complied with.

(b) The division may fix and collect fees for field consultations regarding conveyances as it deems necessary to cover the actual costs of the time spent in the consultation by a division safety engineer, including administrative and travel expenses.

(c) Whenever a person owning or having the custody, management, or operation of a conveyance fails to pay the fees required under this chapter within 60 days after the date of notification, he or she shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of the fee. Failure to pay fees within 60 days after the date of notification shall constitute cause for the division to prohibit use of the conveyance.

(d) Any fees required pursuant to this section shall be set forth in regulations that shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These regulations shall become effective immediately upon filing with the Secretary of State.

(e) For purposes of this section, the date of the invoice assessing a fee pursuant to this section shall be considered the date of notification.

SEC. 31. Section 7315 of the Labor Code is amended to read:

7315. Fees shall be paid before the issuance of any permit to operate a conveyance, but a temporary permit may be issued pending receipt of fee payment. No fee shall be charged by the division where an inspection has been made by an inspector of an insurance company or municipality if that inspector holds a certificate as an elevator inspector and an inspection report is filed with the division within 21 days after inspection is made.

SEC. 32. Section 7316 of the Labor Code is amended to read:

7316. All fees collected by the division under this chapter shall be paid into the Elevator Safety Account which is hereby

1 created for the administration of the division's conveyance safety  
2 program. The division shall establish criteria upon which fee  
3 charges are based and prepare an annual report concerning  
4 revenues obtained and expenditures appropriated for the  
5 conveyance safety program. The division shall file the report with  
6 the Legislative Analyst, the Joint Legislative Audit Committee,  
7 and the Department of Finance.

8 SEC. 33. Section 7317 of the Labor Code is amended to read:

9 7317. (a) Except as provided in subdivision (b), the  
10 following conveyances are exempt from this chapter:

11 (1) Conveyances under the jurisdiction of the United States  
12 government.

13 (2) Conveyances located in a single-unit private home and not  
14 accessible to the public.

15 (3) Conveyances located in a multiunit residential building  
16 serving no more than two dwelling units and not accessible to the  
17 public.

18 (b) Conveyances otherwise exempted pursuant to paragraph  
19 (3) of subdivision (a) shall be inspected by the division upon  
20 completion of installation prior to being placed in service or after  
21 major alterations. The inspection shall be for safety and  
22 compliance with orders or regulations applicable to the type of  
23 conveyance installed.

24 SEC. 34. Section 7318 of the Labor Code is amended to read:

25 7318. Nothing in this chapter limits the authority of the  
26 division to prescribe or enforce general or special safety orders.

27 SEC. 35. Section 7320 of the Labor Code is amended to read:

28 7320. The division may assess a civil penalty not to exceed  
29 one thousand dollars (\$1,000) against any person owning or  
30 having custody, management, or control of the operation of a  
31 conveyance, who operates the conveyance without a permit or  
32 who fails to conspicuously post the permit in the conveyance. No  
33 penalty shall be assessed against any person who has requested the  
34 issuance or renewal of a permit and the request has not been acted  
35 upon by the division.

36 SEC. 36. Section 7321 of the Labor Code is amended to read:

37 7321. (a) The division may assess a civil penalty not to  
38 exceed seventy thousand dollars (\$70,000) against any person  
39 owning or having custody, management, or control of the  
40 operation of a conveyance, who operates or permits the operation

1 of the conveyance in a condition that is dangerous to the life or  
2 safety of any person, or who operates or permits the operation of  
3 the conveyance in violation of an order prohibiting use issued  
4 pursuant to Section 7301, 7305, or 7314.

5 (b) The division shall issue an order prohibiting use and may  
6 assess a civil penalty not to exceed seventy thousand dollars  
7 (\$70,000) against any person who constructs, installs, or  
8 materially alters a conveyance without a permit issued pursuant to  
9 Section 7301.1 that is dangerous to the life or safety of any person.

10 SEC. 37. Section 7321.5 of the Labor Code is amended to  
11 read:

12 7321.5. The division shall enforce Sections 7320 and 7321 by  
13 issuance of a citation and notice of civil penalty in a manner  
14 consistent with Sections 6317 and 6319. Any person owning or  
15 having custody, management, or control of the operation of a  
16 conveyance who receives a citation and notice of civil penalty may  
17 appeal to the Occupational Safety and Health Appeals Board in a  
18 manner consistent with Section 6319.

19 SEC. 38. Section 7322 of the Labor Code is amended to read:

20 7322. (a) Once an authorized representative of the division  
21 has issued an order prohibiting the use of a conveyance as specified  
22 in Sections 7301, 7305, 7314, or subdivision (b) of Section 7321,  
23 the person owning or having custody, management, or operation  
24 of the conveyance may contest the order and shall be granted, upon  
25 request, a hearing to review the validity of the order. The hearing  
26 shall be held no later than 10 working days following receipt of the  
27 request for hearing.

28 (b) After a notice is attached as provided in Section 7305 or  
29 subdivision (b) of Section 7321, every person who enters or uses,  
30 or directs or causes another to enter or use, any conveyance before  
31 it is made safe, or who defaces, destroys, or removes the notice  
32 without the authority of the division, is guilty of a misdemeanor  
33 punishable by a fine of not more than seventy thousand dollars  
34 (\$70,000), by imprisonment in the county jail for not more than  
35 one year, or by both that fine and imprisonment.

36 (c) After a notice is attached for failure to comply with the  
37 requirements of Section 7301 or 7314, every person who enters or  
38 uses, or directs or causes another to enter or use, any conveyance  
39 before it is made safe, or who defaces, destroys, or removes the  
40 notice without the authority of the division, is guilty of a

1 misdemeanor punishable by a fine of not more than seven  
2 thousand dollars (\$7,000), imprisonment in the county jail for not  
3 more than six months, or by both that fine and imprisonment.

4 SEC. 39. Section 7323 is added to the Labor Code, to read:

5 7323. The division shall propose to the standards board for  
6 review, and the standards board shall adopt, regulations for the  
7 equipment covered by this chapter. Not later than December 31,  
8 2003, the division shall propose final rulemaking proposals to the  
9 standards board for review and adoption, which shall include  
10 provisions at least as effective as ASME A17.1, ASME A17.3,  
11 ASME A18.1, and ASCE 21, as in effect prior to September 30,  
12 2002. Not later than nine months after the effective date of any  
13 revision or any substantive revision to any addendum to these  
14 codes, the division shall propose additional final rulemaking  
15 proposals to the standards board for review and adoption at least  
16 as effective as those in the revised code or addendum. The  
17 standards board shall notice the division's final rulemaking  
18 proposals for public hearing within three months of their receipt  
19 and shall adopt the proposed regulations promptly and in  
20 accordance with subdivision (b) of Section 11346.4 of the  
21 Government Code.

22 SEC. 40. Section 7324 is added to the Labor Code, to read:

23 7324. Individuals, firms, or companies certified as described  
24 in this chapter shall ensure that installation, service, and  
25 maintenance of elevators and other conveyances are performed in  
26 compliance with the provisions contained in the State Fire  
27 Prevention and Building Code and with generally accepted  
28 standards referenced in that code.

29 SEC. 41. Section 7324.1 is added to the Labor Code, to read:

30 7324.1. This chapter shall not be construed to relieve or lessen  
31 the responsibility or liability of any person, firm, or corporation  
32 owning, operating, controlling, maintaining, erecting,  
33 constructing, installing, altering, testing, or repairing any  
34 conveyance or other related mechanisms covered by this chapter  
35 for damages to any person or property caused by any defect  
36 therein.

37 SEC. 42. Section 7324.2 is added to the Labor Code, to read:

38 7324.2. The provisions of this chapter added or amended by  
39 the act enacting this section shall not be applied retroactively.  
40 Equipment subject to this chapter shall be required to comply with

1 the applicable standards in effect on the date of its installation or  
2 within the period determined by the board for compliance with  
3 ASME A17.3, whichever is more stringent.

4 SEC. 43. No reimbursement is required by this act pursuant  
5 to Section 6 of Article XIII B of the California Constitution  
6 because the only costs that may be incurred by a local agency or  
7 school district will be incurred because this act creates a new crime  
8 or infraction, eliminates a crime or infraction, or changes the  
9 penalty for a crime or infraction, within the meaning of Section  
10 17556 of the Government Code, or changes the definition of a  
11 crime within the meaning of Section 6 of Article XIII B of the  
12 California Constitution.

